

APPEAL NO. 040440
FILED APRIL 21, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 28, 2004. With respect to the issues before her, the hearing officer determined that the appellant (claimant) sustained a compensable injury on _____, and that he had disability, as a result of his compensable injury, from April 12 to August 3, 2003. In his appeal, the claimant argues that the hearing officer erred in determining that his disability ended on August 3, 2003, and requests that we render a decision that he had disability until October 2003, when he returned to work for another employer making more than his preinjury wage. In its response to the claimant's appeal, the respondent (carrier) urges affirmance. The carrier did not appeal the determinations that the claimant sustained a compensable injury or that the claimant had disability from April 12 to August 3, 2003, and those determinations have become final pursuant to Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's disability ended on August 3, 2003. The claimant had the burden of proof on the disability issue and it presented a question of fact for the hearing officer. There was conflicting evidence presented on the issue of when the claimant's disability ended. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As such, the hearing officer was required to resolve the conflicts and inconsistencies in the evidence and to determine what facts the evidence established. In this instance, the hearing officer determined that the claimant's disability ended on August 3, 2003, in accordance with the last Work Status Report (TWCC-73) from the claimant's treating doctor. The hearing officer was acting within her province as the fact finder in so finding. Nothing in our review of the record reveals that the challenged determination is so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb the hearing officer's determination that the claimant's disability ended on August 3, 2003, on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ROYAL INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
701 BRAZOS STREET, SUITE 1050
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Gary L. Kilgore
Appeals Judge